

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

UNITED STATES OF AMERICA

v.

No. 4:18-MJ- 409

WILLIAM BRIAN SMITH

CRIMINAL COMPLAINT

I, the undersigned Complainant, being duly sworn, state the following is true and correct to the best of my knowledge and belief:

On or about November 15, 2015, **William Brian Smith**, hereinafter **Smith**, knowingly attempted to use a minor to engage in sexually explicit conduct for the purpose of producing a visual depiction of such conduct, and the visual depiction was produced using materials that have been mailed, shipped, and transported in and affecting interstate and foreign commerce by any means, including by computer.

Specifically, **Smith** used an Apple iPhone 6 plus cellular phone to create the following visual depiction of a minor engaged in sexually explicit conduct:

!!IMG_4798.MOV: A video file which surreptitiously records a female minor undressing and getting into and out of a bathtub. The video depicts the minor female in a state of total undress with her breasts and genitals exposed.

In violation of 18 U.S.C. § 2251(a) and (e).

I, Paul M. Callen, being duly sworn, declared and state as follows:

1. I am a Special Agent (SA) with the United States Immigration and Customs Enforcement (ICE), Homeland Security Investigations (HSI), assigned to the Special Agent in Charge, Dallas, Texas. I have been employed with HSI since May 2007. As

part of my duties as an HSI agent, I investigate criminal violations relating to child exploitation and child pornography, including violations pertaining to the illegal production, transportation, distribution, receipt, and possession of child pornography, in violation of 18 U.S.C. §§ 2251, 2252 and 2252A. I have received training in the area of child pornography and child exploitation, and have had the opportunity to observe and review numerous examples of child pornography (as defined in 18 U.S.C. § 2256) in all forms of media, including computer media. I have been involved in several child pornography investigations and am familiar with the tactics used by child pornography offenders who collect and distribute child pornographic material.

2. As a federal agent, I am authorized to investigate violations of the laws of the United States and to execute warrants issued under the authority of the United States.

3. This affidavit sets forth facts and suggest reasonable inferences from those facts, establishing that there is probable cause to believe that on or about November 15, 2015, in the Northern District of Texas, **Smith**, committed the offense of Attempted Sexual Exploitation of Children, in violation of 18 U.S.C. § 2251(a) and (e), which makes it a crime for any person to attempt to employ, use, persuade, induce, entice, or coerce a minor to engage in any sexually explicit conduct for the purpose of producing a visual depiction of such conduct.

4. The information contained in this affidavit is from my personal knowledge of the described investigation and from information obtained from other law enforcement agents.

OVERVIEW OF INVESTIGATION

5. On October 3, 2017, Saginaw Police Department, Saginaw, Texas, law enforcement officers were dispatched to Bana Box, Inc., after receiving a report concerning a Bana Box, Inc., employee in possession of child pornography on his assigned work computer. Saginaw Police Department Officer Chad Notgrass arrived at Bana Box, Inc, and met with Chief Executive Officer(CEO)/Owner, David Boenker and Vice President(VP) Jordan Boenker. While in David Boenker's office, Officer Notgrass observed a computer and monitor with multiple file folders displaying small girls between the ages of 5-10 years old on the screen, including an image of a minor prepubescent female with her legs spread open lasciviously exposing her genitals.

6. David Boenker stated to Officer Notgrass that this computer/monitor, identified as a Dell OptiPlex3010 Computer Tower (service tag BWG5XV1) containing a Seagate Barracuda 500GB SATA HDD S/N S2ALV1MK, was assigned to and used by **Smith**. David and Jordan Boenker both stated that they had contacted Paul Gately, a Bana Box, Inc., information technology (IT) representative to further investigate the pornographic material displayed on the computer. David Boenker stated that Gately located a large amount of child pornography on the computer, and confirmed that **Smith** was the only user of the computer. David Boenker advised that as soon as he learned what was on the computer he called **Smith** to inform him that his employment was being terminated. David Boenker further advised that during

this meeting **Smith** was very concerned and asked if he could delete the contents from the computer because “it would get him arrested.”

7. David Boenker provided written consent to search the contents of the Dell OptiPlex3010 Computer Tower (service tag BWG5XV1) used by **Smith**, which was then seized and transported to the Saginaw Police Department. On the same day, Saginaw PD Corporal Calene McDonald, Criminal Investigation Unit (CIU), secured and executed a Texas state search warrant at **Smith’s** residence located at [redacted] Meadow Way Lane, Fort Worth, Texas. Electronic items were discovered during the search of **Smith’s** home, including Apple iPhones; a Toshiba Satellite C675D-S7101 laptop computer, S/N 1C085719K; a Lenovo Y550P laptop computer, S/N CBU2105758; an Apple Ipad; an RCA tablet; a Polaroid tablet; an external hard drive; a SanDisk Ultra 16GB SD memory card; and a USB Convertor adapter Dell.

8. On October 3, 2017, Corporal McDonald secured a Texas State search warrant to search all electronic items seized [listed in paragraphs 6 and 7]. All electronic items were delivered to the Tarrant County Computer Forensics lab for processing.

9. On January 24, 2018, Investigator H. Nguyen of the Tarrant County Criminal District Attorney’s Office Digital Forensics and Technical Services conducted a forensic examination of the following items that were seized from Bana Box, Inc. and **Smith’s** residence:

- Dell OptiPlex3010 Computer Tower (service tag BWG5XV1) containing (1) Seagate Barracuda 500GB SATA HDD S/N S2ALV1MK
- Toshiba Satellite C675D-S7101 laptop computer S/N 1C085719K containing (1) Toshiba MK5075GSX 500 GB SATA HDD S/N Z156FLCDS
- Lenovo Y550P laptop computer S/N CBU2105758 containing (1) Seagate Momentus 160GB SATA HDD S/N 5VC64K5S.

10. As a result of the forensic examination of the Dell OptiPlex3010 Computer Tower (service tag BWG5XV1), Investigator Nguyen identified and confirmed the computer, hard drive and user profiles belonged to and were used by **Smith**. The analysis indicated that there were more than 200,000 saved images and videos suggestive of child pornography and exploitation stored in the “Downloads” directory within the “2009-01-07 001” subdirectory. Investigator Nguyen’s analysis further stated that the majority of the contraband child images and videos were stored within two (2) sub-directories named “ls” and “teac.” Further analysis of the “teac” folder disclosed several hundred video files consistent with surreptitious recordings captured with the use of iPhone cameras.

11. Many of these iPhone video recordings appeared to be of nude or topless female exotic dancers within adult establishments in the Fort Worth area. Several of these videos contained recorded audio of conversations where a male identifies himself as “Brian” [**Smith**]. Even more video files contained surreptitious recordings of unknown females ranging from pre-teens to adult-aged females. In

these videos, the focus is on the subject's breast and genital area, despite being clothed. Further analysis of the "teac" folder indicated that still images had been created from these iPhone videos. Investigator Nguyen observed that the focus of the still images was on the subject's breast and genital area. Investigator Nguyen also observed that several of the videos in the collection contained surreptitious recordings of female adults/children in vulnerable stages of undress including, but not limited to, up-skirts, changing rooms, public restrooms, and window peeping.

12. Additionally, the surreptitious iPhone recordings/videos depicted minor females. One of the videos discovered, identified by filename as **"!!IMG_4798.MOV"** depicted the secret recording of a minor female undressing and getting into and out of a bathtub to shower. The video depicts the minor female in a state of total undress with her breasts and genitals exposed. A white, adult male subject, which appears to be **Smith**, is seen on the video setting up the camera. Investigator Nyguen discovered several still images from the video, including **Snapshot 11(2-26-2016 2-18pm).jpg**. This image depicts the nude minor female standing in the shower with her breasts and genitals exposed. These images were located in other directories within the user profile. Data from the video indicated that the device utilized to capture the video was an iPhone 6 plus. The video was approximately 15:01 in length and the creation date was listed as November 15, 2015.

13. Your affiant conducted an analysis of the photographs taken during the search warrant at **Smith's** residence on October 3, 2017, and compared them to the bathroom visible in the video file "**!! IMG_4798.MOV**" and **Snapshot 11(2-26-2016 2-18pm).jpg**, and confirmed that the video and image were produced in the bathroom in **Smith's** residence located in the Fort Worth Division of the Northern District of Texas.

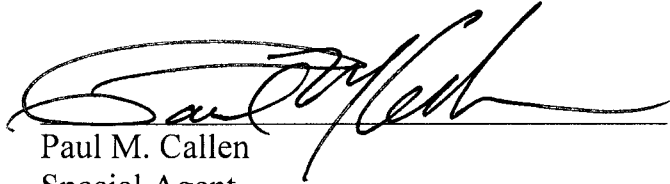
14. On June 21, 2018, your affiant met with Detective Stone and Investigator Nyguen and viewed the material found on **Smith's** Dell OptiPlex3010 Computer Tower (service tag BWG5XV1) containing (1) Seagate Barracuda 500GB SATA HDD S/N S2ALV1MK. Detective Stone confirmed that the male whose face is briefly seen in the video appeared to be **Smith**.

15. Your affiant is aware that the Apple iPhone 6 plus is manufactured or assembled in China and therefore the visual depiction was produced using materials that had been mailed, shipped, or transported in and affecting interstate and foreign commerce.

CONCLUSION

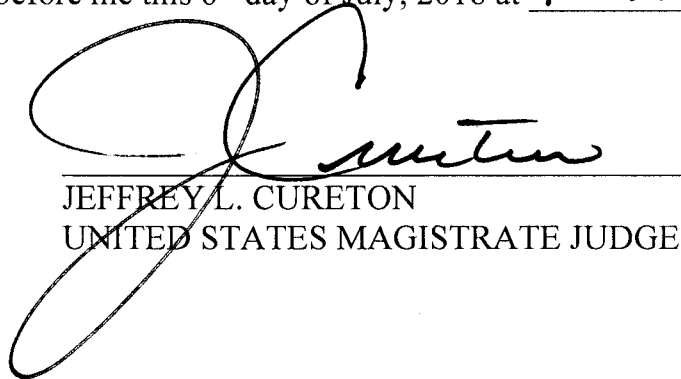
16. Based on the foregoing facts and circumstances, I respectfully submit that there is probable cause to believe that on or about November 15, 2015, in the Northern District of Texas, **William Brian Smith** committed the offense of sexual exploitation of children, in that he knowingly attempted to use a minor to produce a

visual depiction of the minor engaged in sexually explicit conduct. Therefore, he has committed a violation of 18 U.S.C. § 2251(a) and (e).



Paul M. Callen
Special Agent
Department of Homeland Security Investigations

Subscribed and sworn before me this 6th day of July, 2018 at 10:02 a.m.
in Fort Worth, Texas.



JEFFREY L. CURETON
UNITED STATES MAGISTRATE JUDGE